



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 14, 2022

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0367

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employees engaged in biased policing by targeting the Complainant's vehicle for towing and parking citations on two different dates based on the Complainant's race.

SUMMARY OF INVESTIGATION:

The Complainant filed a web complaint with OPA alleging that her vehicle was targeted for towing and citations because of her race. Specifically, the Complainant alleged that she parked her car in front of her uncle's apartment (the Location), where there were no signs indicating that parking was not allowed. Moreover, the Complainant alleged that other people had parked at the Location and "no one ever gets a ticket." The Complainant also alleged that Named Employee #1 (NE#1) had the Complainant's car towed but "just drove by" another car that was also parked at the Location. Finally, the Complainant alleged that Named Employee #2 (NE#2) gave her a ticket when she was legally parked and that "nobody else got a ticket today." The Complainant alleged that this was disparate treatment based on her race.

OPA commenced this investigation. OPA reviewed the complaint, all the parking citations written for the Location's block on both days identified by the Complainant, as well as videos and photographs provided by the Complainant. OPA also conducted a site visit and interviewed the Complainant and the building manager at the location.

During her OPA interview, the Complainant largely reiterated the allegations in her Complaint. The Complainant stated that she was staying at her uncle's apartment due to a domestic violence situation. The Complainant also stated that her car was damaged due to the domestic violence situation and that the building manager at her uncle's apartment



told her that she could only stay a short time because she was not on the lease. According to the Complainant, she parked at the Location around midnight on August 3, 2021 in a “30 minute zone” where there were other vehicles parked. When she woke up around 9:00 A.M., she observed NE#1 looking at her vehicle. The Complainant said that other people had been doing this because of the damage on her car. The Complainant said, in response to this, she told NE#1 to get away from her car and, when NE#1 did not, the Complainant set off her car alarm. The Complainant said she was speaking with NE#1 through the window of her uncle’s building. Based on video provided by the Complainant, this would have been from the second or third floor of the building down to the street level. The Complainant said that the building manager was the one who called parking enforcement and that the building manager put a sign on her car that said “Impound.” The Complainant said that a short time later, she saw that her car had been towed. The Complainant said that she picked her car up from impound the next day (August 4, 2021) and again parked her car at the Location. The Complainant said she had not had time to get new “tabs” for her car, but that NE#1 issued a citation to her for expired tabs on August 5, 2021. The Complainant alleged that she was the only one who received a ticket on both days.

OPA also interviewed the building manager. The building manager said that the Complainant was an unauthorized guest in the apartment complex who had to be removed. The building manager stated that the Complainant’s car was heavily damaged and had been parked in a 30-minute load zone overnight. The building manager said that she observed NE#1 outside writing a citation for the Complainant’s vehicle when someone made the car alarm go off. The building manager heard someone yelling at NE#1 from upstairs, telling them, in sum and substance, to leave the car alone. The building manager said that NE#1 responded, in sum and substance, that the person could come downstairs to talk, but that they were not going to continue yelling back and forth, and to turn off the alarm. The building manager did not hear anyone mention the race of any party.

OPA also reviewed all the citations issued for the block of the Location on August 3 and August 5, 2021. On August 3, 2021, NE#1 issued a citation to the Complainant’s vehicle for a school loading zone violation, with a notation that the vehicle was to be impounded. The citation noted that the Complainant’s vehicle had no license plate and that the VIN was covered. The citation noted that the Complainant’s vehicle was parked in a 15-minute school loading zone (valid from 6:00 A.M. to 7:00 P.M.), with the curb painted yellow. The citation also noted that the Complainant’s vehicle was parked five feet south of the sign and that the vehicles were chalked at 7:50 A.M. and the vehicle was cited at 10:16 A.M. The citation had corroborative photographs attached to it. Finally, the citation also referenced that it was “on complaint” of a Community Service Request (CSR). The referenced CSR was submitted on August 2, 2021, and noted: “car looks abandon[ed], busted window, no license plate, has been in load/school 15min zone over 24 hours.” No other citations were issued in the Location’s block on August 3, 2021.

On August 5, 2021, NE#2 issued the Complainant’s vehicle a citation for improper display (no plates; expired trip permit). Photographic evidence attached to the August 3 citation shows the vehicle’s VIN and back of the car with no plates displayed. NE#2 issued two other citations to vehicle on the Location’s block on August 5, both to the same vehicle, for a “Truck Load Zone” violation and expired plates.

OPA also reviewed the videos and photographs submitted by the Complainant. The Complainant submitted three videos. The first and second video appears to be the same and showed NE#1 using their handheld device at the front of the Complainant’s vehicle. These videos did not show any other vehicles. The third video showed another vehicle parked on the curb, but with no indication of the time frame during which they were parked there. The photos the Complainant submitted were entirely consistent with those attached to her citations, did not prove the timeframe that other vehicles were parked in the temporary loading zone, were for dates other than August 3 or August 5, 2021,



or showed vehicles parked on the street at nighttime when the temporary load zone restrictions presumably did not apply.

Finally, OPA conducted a site visit on August 24, 2021, at 7:30 A.M. The OPA investigator observed signs consistent with the citations and a school at the Location. The OPA investigator also observed at least four vehicles that parked for short periods of time and then left after conducting a school drop off.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in biased policing by targeting the Complainant's vehicle for towing and parking citations on August 3, 2021.

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. (*See id.*)

As an initial matter, the evidence is overwhelming—and the plaintiff admitted as much in her interview—that her vehicle was illegally parked on August 3, 2021. Accordingly, this allegation could only be substantiated if the Complainant were treated differently on account of her race from another, similarly situated people of a different race. There is no evidence to indicate that this happened on August 3, 2021. To the contrary, NE#1 appears to have been responding to a CSR that did not mention the Complainant's race. Moreover, even the Complainant stated that NE#1 had already responded to her vehicle before NE#1 could have possibly known the Complainant's race. Also, contrary to the Complaint's claim that she had parked her vehicle at the Location at midnight on August 3, a non-party CSR dated August 2, 2021, alleged that her vehicle had be parked at the location for over 24 hours. Conversely, there is no evidence to substantiate the Complainant's allegation that other cars were also in violation of the same rule but did not get cited.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#2 also engaged in biased policing by targeting the Complainant's vehicle for towing and parking citations on August 5, 2021.

As with the allegation against NE#2, the evidence is overwhelming—and the plaintiff admitted—that her vehicle was citable for improper display on August 5, 2021. Moreover, NE#2 cited another vehicle on the same block that same day. Dispositively, there are absolutely no evidence at all that NE#2 was ever aware of the Complainant's race.



Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**